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**STORY COUNTY, IOWA  
CERTIFICATE OF CONDITIONAL USE PERMIT  
AND WRITTEN FINDINGS OF FACT**

<b>IN THE MATTER OF THE APPLICATION OF:</b>	<b>: PERMIT NO. CUP21-000013</b>
<b>InRoads Mineral Extraction, for the request of a</b>	<b>:</b>
<b>Conditional Use Permit modification for a three-</b>	<b>:</b>
<b>year extension of mineral extraction, located on</b>	<b>:</b>
<b>the SW SW of Section: 18 Township: 83 Range:</b>	<b>:</b>
<b>23, Grant Township, (Parcel ID Number 10-18-</b>	<b>:</b>
<b>300-300).</b>	<b>:</b>
	<b>:</b>
	<b>:</b>

On January 19, 2022, the Story County Board of Adjustment approved the Conditional Use Permit CASE NO. CUP21-000013 for the request of a Conditional Use Permit modification for the requested three-year extension of mineral extraction with conditions.

- 1. The extraction use shall cease by December 31, 2024, and the site be restored based on the restoration plan if no modifications to the conditional use permit for phase two of extraction are approved. Once restoration is completed, the site shall be inspected by Planning and Development staff for conformance with the submitted restoration plan and prior to releasing bond security.
- 2. All other conditions in CUP07-18 remain in effect

**VOTE:**        **Ayes:**            Neubauer, Excell, Hovick, Jondle, McGill  
                 **Nayes:**  
                 **Absent:**  
                 **Vote:**            (5-0)

**Written Findings of Fact**  
**Case Summary:** This request is for a minor modification to a conditional use permit for the extraction of sand and gravel. The conditional use permit was originally approved on November 28, 2018, with conditions, including that “the extraction use shall cease by December 31, 2021, and the site be restored based on the restoration plan if no modifications to the conditional use permit for phase two of extraction are approved. Once restoration is completed, the site shall be inspected by Planning and Development staff for conformance with the submitted restoration plan and prior to releasing bond security.” This condition was based on the anticipated amount of material to be extracted over the three-year period.

InRoads calculated that the amount of sand that was approved to be extracted in CUP07-18 was approximately 400,000 tons. In the previous three years InRoads has sold approximately 51,875 tons of material from the extraction site. InRoads expects to sell approximately 100,000

tons of material in the next three years in the modification is granted. This would place them below half of what the original conditional use permit expected as the amount of material they would extract. The applicant stated that the reason that they have not sold as much material as anticipated was that they do not have a “constant customer” (permanent asphalt or concrete plant they support). Another factor is that they largely sell sand on a project by project basis. They were unsuccessful in some of their bids which meant less material sales. They also sell from InRoads LLC to InRoads Des Moines and they used less than expected in 2021. There was also more work to develop the sand pit than anticipated.

Since 2018, InRoads has worked on several projects in Story County, including work on Highway 65.

The Board of Adjustment set a condition limiting the first phase of extraction due to more intensive methods used in Phase 2 and need for additional data prior to Phase 2 approval. Phase 1 uses an excavator to remove the sand and gravel material. Phase 2 would require larger and more intense machinery for extraction. The applicant indicates that they anticipate applying for the second phase of extraction, where they would extract material at a greater depth and extent on the site (including east of the existing mining cell), in approximately two-and-a-half years. Based on the tests and studies done in preparation for the application, the applicant believes that the reserves could support the second phase of extraction for 20 years.

Marcus Amman, Story county Planning and Development Planner, reviewed the Conditional Use Permit Application, site plans, written narrative and other related submittal materials and responses from the applicant to County staff comments in accordance to Chapter 90 Conditional Uses of the Story County Land Development Regulations. Amelia Schoeneman presented the staff report at the January 19, 2022 Story County Board of Adjustment meeting.

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## Conditional Use Permit Analysis

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### A. **Applicable Regulations:** Chapter 90.04: Standards for Approval

The Planning and Zoning Commission shall review the proposed development for conformance to the following development criteria:

1. **Compatibility.** The proposed buildings or use shall be constructed, arranged and operated to be compatible with the character of the zoning district and immediate vicinity, and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations. The proposed development shall not be unsightly, obnoxious, nor offensive in appearance to abutting or nearby properties.

*Applicant Comment: The proposed use of a mineral extraction location is consistent with the adjacent property on two of the property lines. InRoads CUP does not interfere with the development and use of adjacent property in accordance with the applicable district regulations. Since the development is the same type of operation as neighboring properties, the development is not unsightly, obnoxious nor offensive in appearance to abutting or nearby properties. Berms are not present on the neighboring property lines; screening berms are only to the extent of the extraction limits on surrounding properties with mineral extraction taking place.*

Staff Comment: The request to change the date that extraction uses cease does not alter the compatibility of the site as it is the current use and adjacent use. The only impact would be the extension of the timeline of Phase 1 and potentially Phase 2 operations at the site. The site, however, has supported projects in Story County and is an appropriate site for extraction without any nearby residences. As Ames grows and with the Phase 2 application, the site’s compatibility will need to be reassessed. The site is almost a half mile from city limits and any areas planned for commercial development such as hotels. Other extraction sites or

construction and demolition sites along South Dayton are much closer to city limits and pose nearer-term compatibility issues. .

Staff recommends a condition that if the conditional use permit modification is approved that the extraction use shall cease by December 31, 2024, and the site be restored based on the restoration plan if no modifications to the conditional use permit for phase two of extraction are approved. Once restoration is completed, the site shall be inspected by Planning and Development staff for conformance with the submitted restoration plan and prior to releasing bond security.

2. **Transition.** The development shall provide for a suitable transition, and if necessary, buffer between the proposed buildings or use and surrounding properties.

Applicant Comment: *There will not be any transition between any buildings since there are not any buildings constructed. The suitable transition will be an aggregate pad on which to set stockpiles, the processing plant area, and farmland beyond the landscaped berm. It would not make sense to have a berm, then farmland, then the extraction area- there needs to be a berm between the farmland and the extraction area for a natural transition and protection of the mined cell.*

Staff Comment: The applicant has already placed landscaping on the property and installed berms per the original CUP as well as the minor modification. The minor modification was a request that was granted for the berm located east of the existing mining cell not to be permanently landscaped until after Phase 2 is either approved or denied. The modification was approved on September 16, 2020. There is a berm on west side of the mining cell that has been planted with trees and an existing tree line between the site and the parcel to the north.

3. **Traffic.** The development shall provide for adequate ingress and egress, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

Applicant Comment: *The location of the berm helps with farm traffic on site and acts as a buffer between the farmland and the extraction site.*

Staff Comment: No new traffic would be created by the change in the date for the extraction operation to cease. The County Engineers office has stated that 560<sup>th</sup> Ave could be vacated in the future if the truck traffic from InRoads affects its condition. The road is only used by InRoads and there are no parcels on 560<sup>th</sup> Ave that have public access.

4. **Parking and Loading.** The development shall provide all off-street parking and loading areas as required by this Ordinance, and adequate service entrances and areas. Appropriate screening shall be provided around parking and service areas to minimize visual impacts, glare from headlights, noise, fumes or other detrimental impacts.

Applicant Comment: *The berm does not affect parking and loading.*

Staff Comment: The change in date does not impact parking and loading.

5. **Signs and Lighting.** Permitted signage shall be in accordance with the applicable district regulations and shall be compatible with the immediate vicinity. Exterior lighting, if provided, shall be with consideration given to glare, traffic safety and compatibility with property in the immediate vicinity.

Applicant Comment: *The property does not need to be lighted during normal working hours.*

Staff Comment: No lighting or signage is proposed.

6. **Environmental Protection.** The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other undesirable, hazardous or nuisance conditions, including weeds.

Applicant Comment: *The berm located to the limits of extraction helps protect the water body from flood or runoff water. The berm is already in its desired location so it will not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other hazardous or nuisance conditions. The berm has been planted with grass seed to hinder the development of weeds.*

Staff Comment: The change in date does not affect the existing environmental protection elements of the existing CUP. The existing CUP included the construction of a flood control berm around the extraction area. Secondary containment structures are to be provided around fuels and other chemicals and a spill response plan is in place. Phase 1 is limited to a depth of 40 feet as the hydrological study that was provided with the original CUP only examined to a depth of 40 feet. Phase 2 would require an updated hydrological study to the proposed 80 feet of Phase 2 extraction.

An updated floodplain permit will be required if the extension is granted. The pad where fuel tanks and the asphalt plant is stored will need to be elevated three feet above the base flood elevation. A flood evacuation plan is part of the floodplain permit and includes monitoring protocol, parameters for when evacuation is required, and the logistics for moving equipment. An evacuation plan has been used for all previous conditional uses on the site.

- B. If the Commission concludes that all the above development criteria will be met, it must recommend approval of the application unless it concludes that, if completed as proposed, there is a strong probability the development will:**

1. **not adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property.**

Staff Comment: There are no adjacent single-family dwellings to the site. Hallett Materials is located to the north of the site, which is a similar use.

2. **impair an adequate supply (including quality) of light and air to surrounding properties.**

Staff Comment: The change in date will not impact the quality of air or lighting on the property.

3. **unduly increase congestion in the roads, or the hazard from fire, flood, or similar dangers.**

Staff Comment: No new traffic would be created by the change in the date of when extraction must cease.

An updated floodplain permit will be required if the extension is granted. The

pad where fuel tanks and the asphalt plant is stored will need to be elevated three feet above the base flood elevation. A flood evacuation plan is part of the floodplain permit and includes monitoring protocol, parameters for when evacuation is required, and the logistics for moving equipment. An evacuation plan has been used for all previous conditional uses on the site

4. **diminish or impair established property values on adjoining or surrounding property.**

Staff Comment: The Story County Assessor's Office raised no concerns with this item from the review of the requested Conditional Use Permit application. No negative impacts on property values are anticipated.

5. **not be in accord with the intent, purpose and spirit of the Land Development Regulations or County Cornerstone to Capstone (C2C) Plan.**

Staff Comment: Other criteria ask the board to consider the use's compatibility with current land use. This criterion asks the Board to consider future land use. This site is within the Rural Urban Transition Area designation in the Ames Urban Fringe Plan Land Use Framework Map. Policies for this area include:

*RUTA Policy 4: Permit interim development to occur in a manner that will support long-term urbanization of the Ames Urban Fringe.*

The first stage of extraction is proposed to last until 2024. The applicant indicates the sand and gravel would be used in construction projects and specifically, to produce asphalt and concrete. InRoads, LLC, is a paving business and the extraction use would provide them with ingredients for the production of asphalt and concrete. No specific projects were identified in the application that would use the materials. The use does support Ames' growth. As Ames grows and with the Phase 2 application, the site's compatibility will need to be reassessed. The site is almost a half mile from city limits and any areas planned for commercial development such as hotels. Other extraction sites or construction and demolition sites along South Dayton are much closer to city limits and pose nearer-term compatibility issues.

### **Conceptual Review**

Application materials were routed to the Interagency Review Team. Some of the County staff review comments were as follows:

#### **Comments from the Assessor's Office**

No Comment

#### **Comments from the Auditor's Office**

No comment

#### **Comments from the Engineer's Office**

560<sup>th</sup> Ave could be vacated in the future.

#### **Comments from the Emergency Management's Office**

No comment

#### **Comments from the Environmental Health's Office**

No comment

#### **Comments from the Planning and Development Office**

Has any maintenance been done on the silt fences on site? *We have removed some silt fence where areas are seeded and stabilized. We have fixed some areas of silt fence where they have been damaged. All silt fence is up to standards as of the date of this submittal.*

**Public notification letters were mailed to surrounding property owners within a quarter-mile of the site on January 4, 2022, regarding the Conditional Use Permit application.**

**Comments from the General Public:**

No comments were received for this proposed use.

**Comments from Cities within Two Miles**

Ames

*Application materials were routed to the City of Ames on December 28, 2021. No comments had been received at the time of completion of this staff report.*

Gilbert

*Application materials were routed to the City of Gilbert on December 28, 2021. No comments had been received at the time of completion of this staff report.*

**Comments from the General Public:**

Prior to the Board of Adjustment meeting, there were not any comments from the public.

**Comments from the Board of Adjustment at their January 19, 2022 meeting:**

Amelia Schoeneman presented the staff report and staff's findings. Schoeneman explained that the mineral extraction use consists of two phases to the process. A backhoe is used in phase one to dig to depths of 40', phase two would use a dredge which goes to 80' depths. Approval has only been given for phase one, and included an extraction deadline. This modification would change the date to allow phase one to continue since it has not been going as quickly as anticipated. There is a timeline in place due to the site having a required restoration plan, so there is a bond in place in the event that restoration doesn't happen.

Schoeneman stated the location is unique due to no nearby residences so the site is compatible, as well as being a good distance away from any commercial sites in the area. It is in the floodplain, so the floodplain permit would require being updated. Schoeneman went through the standards of approval for both the asphalt and mineral extraction modifications on the agenda.

- Compatibility - Nothing is changing, only extending timeline, asphalt plant is not set up so it can't be seen well from I-35.
- Transition - There is an existing tree line between the site and the parcel to the North (Hallet Materials). Berms were previously required around the mineral extraction use that were landscaped.
- Traffic – No new traffic.
- Parking – No new parking and loading impacts.
- Signs and Lighting – no new lighting or signage proposed.
- Environmental Protection – Floodplain management considerations. Three feet of elevation is now required instead of 18", so the gravel pad on the site would need to be increased in height for the fuel storage containers if it is continued to be used for an asphalt plant, which would be addressed in the future. Neubauer asked if this is due to an update since the permit was originally approved. Schoeneman agreed and stated that normally there would be nonconforming, but in this instance since it is not a continued use and removing the plant from the site, the floodplain permit expires and will need renewed and brought into conformance with current standards.

Schoeneman stated if the board concludes that all the standards are met, there are also five other standards to conclude won't happen. All the findings were noted in the Staff Report, so stated she would not summarize them unless there were questions.

The Board did not have questions and no members of the public provided comments.

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**Points to Consider for the Conditional Use Permit Request**

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- 1. The mining cell provides has been in use for the last three years.
- 2. The InRoads has only extracted approximately 51,875 tons of material from the anticipated 400,000 tons the site could have removed.
- 3. The proposed 3 year extension anticipates the removal of another 100,000 tons of material.
- 4. Staff recommends a condition the extraction use shall cease by December 31, 2024, and the site be restored based on the restoration plan if no modifications to the conditional use permit for phase two of extraction are approved. Once restoration is completed, the site shall be inspected by Planning and Development staff for conformance with the submitted restoration plan and prior to releasing bond security.

**Board of Adjustment Action on Written Findings of Fact**

**Date:** February 16, 2022  
**VOTE:**           Ayes                   Nays  
**McGill**  
**Neubauer**  
**Excell**  
**Hovick**  
**Jondle**

**Vote:**

**Chair:** \_\_\_\_\_